

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Before the Board of Patent Appeals and Interferences

Ex Parte:	ANDERSON, WALTER
Application Number:	09/938,184
Filing Date:	August 23, 2001
Title:	Key Management Methods for Secure Communication Systems
Group:	2137
Examiner:	MICHAEL PYZOGA

REPLY BRIEF ON BEHALF OF APPELLANTS UNDER 37 CFR 41.41

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Electronic Submittal Date: October 1, 2007

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I. STATUS OF CLAIMS

Claims 1-11 are withdrawn. Claims 12-18 remain in the application. Claims 12-18 are being appealed. Claims 12-18 stand or fall together.

In a final Office Action dated August 23, 2006, the Examiner rejected Claims 12-13 under 35 U.S.C. 102(b) as being anticipated by Gardeck, et al. (USPN 5,471,532); Claim 14 under 35 U.S.C. 103(a) as being unpatentable over Gardeck, et al. in view of Doiron (USPN 5,481,610); Claim 15 under 35 U.S.C. 103(a) as being unpatentable over Gardeck, et al. in view of Miller (USPN 6,208,612); and Claims 16-18 under 35 U.S.C. 103(a) as being unpatentable over Gardeck, et al. in view of Schneier (Schneier, Bruce, Applied Cryptography, CRC Press, 1996, pages 1-2).

II. GROUND OF REJECTION TO BE REVIEWED ON APPEAL

- A. Whether Claims 12-13 are patentable under 35 U.S.C. 102(b) over Gardeck, et al.?
- B. Whether Claim 14 is patentable under 35 U.S.C. 103(a) over Gardeck, et al. in view of Doiron?
- C. Whether Claim 15 is patentable under 35 U.S.C. 103(a) over Gardeck, et al. in view of Miller (USPN 6,208,612)?
- D. Whether Claims 16-18 are patentable under 35 U.S.C. 103(a) over Gardeck, et al. in view of Schneier (Schneier, Bruce, Applied Cryptography, CRC Press, 1996, pages 1-2)?

III. ARGUMENT

A. Claims 12-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Gardeck, et al. (USPN 5,471,532).

Appellant disagrees with the statement in the Examiner's Answer on page 8 that "giving the claim its broadest reasonable interpretation, a 'manual key delivery device' is any device that can send and receive key management messages remotely. . . . Therefore, the over-the-air (i.e. wireless) devices of Gardeck anticipate the 'manual key delivery device' of the claimed invention." Appellant submits that this is not a reasonable interpretation of "manual key delivery device" in view of either the disclosures of Gardeck or in light of the present specification.

More particularly, Gardeck identifies two ways in which keys can be managed. "The KMC [key management controller] can assign keys to communication units . . . [where] a key is assigned by over-the-air rekeying (OTAR), whereby the KMF provides the key to a communication unit over a radio channel. Alternatively, the key can be provided by temporarily connecting the communication unit to a key-variable-loader (KVL)" (col. 1, lines 16-26). The current specification identifies the KVL as an example of a key delivery device for manual rekeying, which is an example of the claimed "manual key delivery device" of independent claim 12. Moreover, Gardeck specifically states that "the present invention provides a method for over-the-air rekeying of roaming communication units" (col. 1, lines 60-61), thereby excluding the use of the "alternative" KVL or claimed "manual key delivery device" of independent claim 12.

Therefore, since limitations are missing from the Gardeck reference, the rejection of claims 12 and 13 under 35 U.S.C. 102(b) should be withdrawn.

B. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gardeck, et al. in view of Doiron (USPN 5,481,610).

In the present case the combined teachings of the Gardeck, et al. and Doiron references do not teach or suggest all of the claim limitations of Claim 14. Applicants have set forth limitations that are recited in Claim 12 and included by dependency in Claim 14, which are not disclosed in Gardeck, et al. Applicants further submit that these limitations are also not disclosed in Doiron. Therefore, since limitations are missing from the Gardeck, et al. and Doiron references, a rejection of Claim 14 under 35 U.S.C. § 103(a) should be withdrawn.

C. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gardeck, et al. in view of Miller (USPN 6,208,612)

The Examiner has not established a *prima facie* case of obviousness with respect to Claim 15 since the combined teachings of the Gardeck, et al. and Miller references do not teach or suggest all of the claim limitations of Claim 15. Applicants have set forth limitations that are recited in Claim 12 and included by dependency in Claim 15, which are not disclosed in Gardeck, et al. Applicants further submit that these limitations are also not disclosed in Miller. Therefore, since limitations are missing from the Gardeck, et al. and Miller references, a rejection of Claim 15 under 35 U.S.C. § 103(a) should be withdrawn.

D. Claims 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gardeck, et al. in view of Schneier (Schneier, Bruce, Applied Cryptography, CRC Press, 1996, pages 1-2).

The Examiner has not established a *prima facie* case of obviousness with respect to Claims 16-18 since the combined teachings of the Gardeck, et al. and Schneier references do not teach or suggest all of the claim limitations of Claims 16-18. Applicants have set forth limitations that are recited in Claim 12 and included by dependency in Claims 16-18, which are not disclosed in Gardeck, et al. Applicants further submit that these limitations are also not disclosed in Schneier. Therefore, since limitations are missing from the Gardeck, et al. and Schneier references, a rejection of Claims 16-18 under 35 U.S.C. § 103(a) should be withdrawn.

For the reasons set forth above, Applicants submit that the rejection of claims 12-13 under 35 U.S.C. § 102(b) and Claims 14-18 under 35 U.S.C. § 103(a) should be withdrawn and a timely notice of allowance issued.

Respectfully submitted,

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